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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

8 BILLING ASSOCIATES NORTHWEST,
9 LLC,

10 Plaintiff,

11 v.

12 ADDISON DATA SERVICES, LLC, et al.,

13 Defendants.

CASE NO. C20-1854 RSM

ORDER

14 This matter is before the Court on Plaintiff's motion seeking to have the Court accept a
15 late-filed declaration in support of its opposition to Defendants' pending motions to dismiss.¹
16 Dkt. #23. Plaintiff indicates that it intended to offer a timely declaration of Steven Michael
17 Collier ("Mr. Collier") but was unable to because Mr. Collier was recovering from a three-day
18 hospitalization for treatment of a heart condition. *Id.* at 2. Mr. Collier also declares this was the
19 case. Dkt. #24 at ¶ 23.

20 The decision of whether to consider a late-filed declaration is governed by Federal Rule
21 of Civil Procedure 6. Rule 6 provides that, for good cause, the Court may extend the time for
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24 ¹ The motions to dismiss remain pending and the Court will rule on them in due course.

1 accomplishing an act “on motion made after the time has expired if the party failed to act because
2 of excusable neglect.” FED. R. CIV. P. 6(b)(1)(B).

3 [T]he determination of whether neglect is excusable is an equitable one that
4 depends on at least four factors: (1) the danger of prejudice to the opposing party;
5 (2) the length of the delay and its potential impact on the proceedings; (3) the
6 reason for the delay; and (4) whether the movant acted in good faith.

7 *Bateman v. U.S. Postal Serv.*, 231 F.3d 1220, 1223–24 (9th Cir. 2000) (citing *Pioneer Investment*
8 *Services Co. v. Brunswick Assocs. Ltd. Partnership*, 507 U.S. 380, 395 (1993)).

9 Here, the Court finds Plaintiff’s showing sufficient. Notably, Defendants do not oppose
10 Plaintiff’s motion.² Dkt. #25. A party’s non-opposition “may be considered by the court as an
11 admission that the motion has merit.” *See* LOCAL RULES W.D. WASH. LCR 7(b)(2). Nonetheless,
12 Plaintiff’s motion adequately addressed the factors weighed in consideration of excusable
13 neglect. Dkt. #23 at 3–4. The Court agrees with the reasons provided by Plaintiff and grants its
14 motion.

15 Accordingly, and having considered Plaintiff’s motion, the arguments of the parties, and
16 the remainder of the record, the Court finds and ORDERS that Plaintiff’s Motion to Accept Late-
17 Filed Declaration Based on Unavailability of Declarant (Dkt. #23) is GRANTED.

18 Dated this 17th day of May, 2021.

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20 RICARDO S. MARTINEZ
21 CHIEF UNITED STATES DISTRICT JUDGE
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24 ² Defendants do share their opinion that Mr. Collier’s declaration is wholly irrelevant and has no
effect on the arguments contained in the pending motions to dismiss. Dkt. #25 at 2.